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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,238	06/26/2003	Zdravko Kovac	A-9727F	4241

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,238

Applicant(s)

KOVAC, ZDRAVKO

Examiner

Flemming Saether

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005 and 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 and 37-62 is/are pending in the application.
- 4a) Of the above claim(s) 16, 17, 20, 21, 24, 25, 27, 28, 33, 34, 37 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18, 19, 22, 23, 26, 29-32, 35, 36 and 39-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to because they were not labeled as "replacement sheet"(s). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restrictions

Claims 16, 17, 20, 21, 24, 25, 27, 28, 33, 34, 37 and 38 remain withdrawn, without traverse, from further consideration pursuant to 37 CFR 1.142(b).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-35 and 37-62 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-50 of copending Application No. 10/606,233. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applications are claiming the same subject matter with the claims of the instant invention being broader thus including all the limitations of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 12-15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus (US 4,558,494). Kraus discloses a device (4) capable of holding a

piece within a bore comprising a cylindrical sleeve (10) with an inner surface having a series of circumferentially spaced fins (6) extending longitudinally therefrom, skewed a same circumferential direction and being thin in relation to its radial and axial dimensions. The sleeve and fins are formed of a single piece of the molded, resilient, and flexible plastic so as to be readily deflected. As seen in Fig. 1, the fins (shown in phantom) extend the length of the sleeve and include at least one end (13) having a conical or tapered shape (column 2, lines 42-44) which forms tapered ends to the fins which extend away from the end and inner surface of the sleeve and which in turn also forms the fins into a trapezoidal shape.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19, 22, 26, 30-32, 35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus as applied above and further in view of Szczukowski (US 6,280,132). Kraus discloses a device as described above and discloses the design not limited to the specific application but that it could be applied to other plastic components including mounting supports, spacers or adjusting devices (the paragraph bridging columns 2 and 3). Szczukowski discloses a plastic component (30) which is both a support and spacer, for sleeve member (21), including an outer diameter which

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increases away from the ends (at 31) and flat ends (at 39). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to apply the design of Szczukowski to the support component of Kraus because Kraus discloses the design could be applied to other components and Szczukowski discloses that when the other component includes an internal bore the tapered ends are advantageous for insertion therein.

Allowable Subject Matter

Claims 1, 4-11, 23, 29, 40-62 would be allowable with appropriate action to obviate the Double Patenting rejection. The prior art of record does not disclose or make obvious a holding device in the in the environment of the claimed invention, and in combination with the other features of the claims, having identical end in combination with the skewed fins nor having both ends of the fins extending away and inward from an end of the sleeve.

Response to Remarks

Applicant argues claim 1 and similarly claims 29, 40 and 51, along with their subsequent dependent claims, define over the prior art, in particular Kraus, because Kraus does not identical ends for insertion from either end. In response, as evident from the indication of allowable subject matter, the examiner is in agreement with applicant on this issue.

Applicant argues that claims 2 and 12 define over Kraus since Kraus does not disclose the fins being tapered but, instead only discloses the cylinder 10 as being tapered and relies on claims 4 as evidence thereof. In response, the examiner disagrees. As seen in Fig. 1, and described in paragraph beginning column 2, line 42 of Kraus, the fins are shown in phantom as denoted by reference numeral 6 and the end of the end of part shown in phantom is clearly shown to have a conical taper (at 13). Specific to applicant's arguments, the reference numeral 10 is directed to the entire cylinder which would inclusive of the fins 6 and Fig. 4 discloses an alternate embodiment not having any taper. Furthermore, the feature of the tapering ends applied to the fins appears self evident for guiding the bolt into the correct position and evidenced by the prior art to Rückwardt (US 5,170,984) and Failla (US 4,693,248) which clearly disclosing the tapering fins for directing the bolt into the correct position.

Applicant also argues that the shape of the fin in Kraus would not be trapezoidal. In response, a trapezoid is required to have only two parallel sides, which in Kraus would be in the radially inner and outer extent of the fins, and two non-parallel sides which would be inherent in Kraus as a result of the tapered end. It should be recognized that a trapezoid does not require the other end to be tapered.

In regards to claim 23, contrary to applicant's remarks the claim was indicated allowable because the claim was amended to require each end of the fins to be tapered.

Applicant argues that there would be no motivation of the combination of Kraus and Szczukowski since the other components parts discussed in Kraus would not require mounting within a bore as in Szczukowski. In response, applicant's attention is directed to the patent Rückwardt (US 5,170,984) which discloses an other component specifically a mounting support wherein there is provided a bore (at 6). Therefore, the examiner maintains it would have been obvious to modify the device of Kraus in view of Szczukowski such that the design could be used in another mounting support such as disclosed in Rückwardt.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 5-13-05 prompted a new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

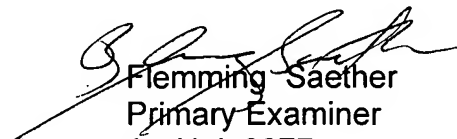
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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